

REMARKS

Claims 1-14 are pending in this application. Claim 1 is amended in this response.
Claims 2-14 remain unchanged.

Claims 1-3, 6, 7, 9, 10, and 14 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Pat. 4,384,486 to Eckert (Eckert). Claims 4 and 5 are rejected under 35 U.S.C. § 103(a) as being obvious over Eckert in view of U.S. Pat. 5,472,012 to Woods (Woods). Claim 8 is rejected under 35 U.S.C. § 103(a) as being obvious over Eckert in view of U.S. Pat. 5,124,686 to White (White). Claims 11 and 12 are rejected under 35 U.S.C. § 103(a) as being obvious over Eckert in view of White as applied to claim 8, further in view of U.S. Pat. 5,589,639 to D'Antonio (D'Antonio). Claim 13 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Eckert in view of U.S. Pat. 6,336,362 to Duenas. We respectfully traverse all grounds of rejection.

In particular, we submit that none of the references cited, whether taken alone, or in any proper combination, teaches or suggests Applicant's invention of a tank liquid level or volume gauge having a float member extending into the tank which is configured to allow the float member to float in the liquid as taught and claimed by the Applicant. More specifically, as now more clearly claimed, and with particular reference to the instant specification at page 4, lines 27 to page 5, line 13 and Fig. 1, the float member comprises a bifurcated cylinder having upper and lower portions, with the lower portion defining a sealed float chamber configured to allow the float member to float in the liquid contents of the tank.

None of the references cited teach a tank liquid level or volume gauge (1) having a float member extending into the tank (2) comprising a bifurcated cylinder having upper and lower portions (3) with the lower portion defining a sealed float member (4) configured to allow the float member to float in the liquid as taught and claimed by the Applicant. The Examiner proposes that Eckert discloses the float member of the Applicant's invention, specifically "a float member ... that extends far enough into the tank so as to float when the liquid has reached a relatively low level."

We respectfully disagree, noting that the float 44 of Eckert is slidably mounted on the tube 34 and does not define a separate float chamber configured to allow the float member to float in the liquid. However, in order to more clearly distinguish Applicant's invention over the prior art, claim 1 is amended herein to include a more detailed recitation of the "float member" as taught and claimed by the Applicant.


At least on this basis, we submit that all claims pending in this application are distinguishable over the prior art and therefore in condition to be allowed.

Furthermore, Applicant's invention indicates a liquid level or volume of a tank without the requirement of the additional elements taught by Eckert (e.g., pivot pins 56, 58; rollers, 60; 62; flexible tape-like material 64; frame formed of elongated strips 50; and connecting web 52). With respect to the combinations of Eckert with Wood, White, D'Antonio and Duenas, the omission of an element and retention of its function is an indicia of unobviousness. MPEP § 2144.04 (emphasis in original).

Applicant submits that this application is now in condition for allowance. Early favorable action is solicited. No fees are believed to be due; however, the Commissioner is authorized to apply any other charges to deposit account 06-1050, Order No. 04373-015001.

Respectfully submitted,

Date: 8/28/2003



David L. Schuler
Reg. No. 51,190

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804
Telephone: (617) 542-5070
Facsimile: (617) 542-8906